

USAID/Vietnam Competitiveness Initiative, Phase II (USAID/VNCI)
Monthly Report for July 2012

Simplifying Administrative Procedures

- **NA passes new Laws that incorporate Project 30 recommendations:** The last session of the NA in June passed the Law on Advertisement and the Labor Code that realize some of key reforms recommended by Project 30, such as the abolishment of requirement for advertisement licenses (change to the notification mechanism), abolishment of the requirement of labor books for enterprises, the registration of Enterprise Collective Labor Agreements and the registration of Enterprise Salary Schemes (both registration requirements are replaced by notification mechanism). These are regulations/procedures that affect hundreds of thousands of enterprises, and are be very welcomed by the private sector that has been waiting for the implementation of these reforms for a long time.
- **Government discussion on APCA's locus:** Over the past few weeks, there were discussions among PM, DPMs, OOG, MOJ and MOHA about locus of APCA. MOJ is making the argument that there are overlapping functions between the work of APCA, MOJ and legal systems within ministries and provinces. Minister Cuong of MOJ has sent an official letter asking PM and the Cabinet to approve the move of AP control functions and systems to MOJ. On July 24, MOHA sent their opinion to PM concurring with MOJ's view. It is now up to the P M to make the final decision on this issue. This decision could have huge impact on the future of the AP reform system, and will give a strong message to the public and business community. USAID/VNCI will monitor this issue and keep USAID updated. Due to nature of the issue, please treat it as confidential information.
- **AP reform progress:** As of June 15, 2012, 3,750 APs out of 4,751 APs (79%) recommended by Project 30 have been implemented or submitted to the authorities for approval. At the quarterly meeting between APCA, 24 ministries and two cities (Hanoi, Haiphong), held on Jul 26, 2012, APCA's Director General urged ministries to push up the full implementation of 25 resolutions to end of this year (especially those APs related to customs and taxation). This more aggressive schedule is pushed so that businesses and citizens can benefit sooner from Project 30's results. A focus-review plan (Decision No.263/QD-TTg) was also a highlight of the meeting and integration of new (process-mapping) and old (impact assessment form) review methodologies was highly appreciated by the ministries because of their in-depth review of the substance of the regulations. According to the review plan, ministries will submit the review results by a deadline of August 31, 2012.
- **Guiding materials for ministries and provinces in AP supervision:** On June 4, 2012, with the support of USAID/VNCI's advisory team, APCA issued guidelines on AP supervision to the ministries and provinces. The guidelines address issues and problems identified during APCA's field trip to all the ministries and provinces in late 2011. These issues include the poor quality of AP publicity and the mishandling of the address to receive petitions and feedback on administrative and AP regulations. These guidelines will facilitate APCA's ability to supervise the administrative agencies at all levels, hence strengthening administrative disciplines in serving businesses and individuals. The guidelines will also help prevent the abuse of power if officials and civil servant in performing their assigned duties. According to these guidelines, starting from 3rd Quarter

of 2012, administrative agencies at all levels will have to report on AP publicity, AP handling and the publishing publicity of the address for receiving petitions and feedback on administrative and AP regulations. A consolidated report on these issues will be sent by APCA to the Prime Minister for further instruction. These reports will also be part of M&E set of indicators for performance assessment of administrative agencies.

- **Communications and ACAPR:**

- Seventeen media agencies attended a briefing held at APCA on 26 July, 2012 on "AP reform under the Government's Resolution 13/NQ-CP" (which targets to cut 10% – 15% of the compliance costs related to customs and tax on citizens and businesses). There was a fair amount of coverage of the briefing in the local media which translates into a very strong call for reform and active participation of the ministries and other government agencies in the 2012 review. Below are a few related links:

<http://baodientu.chinhphu.vn/Home/Sua-doi-cac-luat-phap-lenh-de-day-nhanh-don-gian-hoa-TTHC/20127/144617.vgp>

<http://hanoimoi.com.vn/newsdetail/Chinh-tri/554839/cuu-doanh-nghiep-bang%E2%80%A6cai-cach-thu-tuc-hanh-chinh.htm>

<http://www.cand.com.vn/vi-VN/thoisu/2012/7/177117.cand>

<http://www.baomoi.com/Home/ThoiSu/www.baodautu.vn/Cai-cach-hanh-chinh-khong-phai-bien-phap-tinh-the/8967103.epi>

- An M&E team from the IFC had discussions with APCA's M&E team (led by Mr. Nguyen Nguyen Dung, Deputy Director General of APCA) on the draft plan to support APCA in developing and implementing an M&E frame and other related activities. After the discussion, the IFC team finalized and issued the final plan to APCA with an official letter on the future cooperation of the two institutions on M&E related activities...
- The secretariat discussed with Mr. Nguyen Duc Thuan (Thai Binh Shoes Company), a member of ACAPR and Chairman of LEFASO, the possibility of supporting the Contest "Joint hands for AP reform". The support from TBS, should it happen, will be very helpful to the implementation of many related activities including; the evaluation of the papers submitted in response to the contest, and the prizes to be award as a result of the contest. This is evidence of the effective corporation between the private and public sectors in co-implementing an initiative.
- The APCA branding guidelines and application: After two hard days of meetings with the creative and communications team of Dong Tam Co, an ACAPR member, the joint team that consisted of the APCA communication manager, the Dong Tam team and the USAID/VNCI communication advisor finalized the brand identity package for AP reform (APCA and ACAPR). This shows a successful model of corporate support to APCA in area of communications, while also improving APCA's capacity in working with third parties in a very practical way. USAID/VNCI advisory teams are following up with each application committed to support by Dong Tam.

- VITAS, LEFASO, VASEP, YEA organized a July 20, 2012 workshop in HCMC to build harmony on industrial relations and trade/customs reform. The purpose of the workshop was to collect opinions and comments from business members of the three associations on burdensome APs and policies. The workshop showed the participants' appreciation for reforms recommended by Project 30 and recently adopted by the Government and the National Assembly. The reforms highlighted included the labor books, cooperative agreements, bill board advertising licenses, etc. Opinions from the workshop will also be great inputs for APCA and ACAPR in their focus review plan, specifically in custom regulations and procedures.
- Dr. Phan of APCA took the opportunity to meet with HCMC-based ACAPR members to update them on reform progress over last 6 months and to present initial recommendations following the investment - land - construction focused review. ACAPR members committed to further support reform implemented by APCA. The meeting was held at the VCCI office in HCMC on July 20, 2012.
- **AP reform competition:** The 2nd proposal for an award granting event was submitted for APCA's review. USAID/VNCI is providing support in planning for the AP burden reduction competition "join hands for AP reform" event. The team will be collaborating with VTV and Vietnam News Agency to produce a TV report and print communication product that promotes the event's impact and reaches out to the general public, businesses and civil servants to encourage them to continue providing their inputs and opinion for the AP reform process.

Regulatory Reform and Regulatory Impact Assessment (RIA)

- **Training Workshops:**

- Conducted a RIA training course for officials from the Ministry of Agriculture and Rural Development (MARD) on 5-6 July. The course was aimed at helping policy-makers in MARD with the tools necessary to produce better regulations.
- Delivered a presentation on how to prepare a RIA report and USAID/VNCI PERQ activities at a workshop organized by USAID/STAR Plus for STAMEQ on 19-20, July 2012. The workshop was attended by STAMEQ staff of the central and provincial authorities and the civil servants responsible for TBT inquiries and notifications. The workshop helped them understand the benefits of doing impact assessments for technical regulations.
- Conducted a workshop on "Comments and contribution to Policy-making with RIA" for journalists from various news agencies. The workshop was held on 26-27 July 2012 in Hoa Binh province with the participation of 36 reporters and editors from leading news agencies in Hanoi. The workshop was well received by the attendants and considered useful in learning how to better analyze and write articles on public policies. Participants particularly appreciated the RIA approach and stated that it will help them to write better articles in policies related area. USAID/VNCI also took the opportunity to introduce the PERQ contributors from OOG, MPI, MOJ to the audience in order to build a network of supporters for the PERQ program. Providing feedback to the workshop organizers, participants presented many good ideas to keep the momentum of the network going. These ideas included inviting reporters to RIA related events, engaging them in the regulation development process, arranging key speakers for interviews to promote RIA and better regulations. The group also discussed the importance of RIA

training for other groups of reporters, etc. USAID will follow up on these ideas to maximize the impact of the training.

- **Better Regulations:**

- On 24-25 July 2012, USAID facilitated a RIA discussion at MOJ on revising the Law on Laws. The discussion focused on issues related to RIA requirement on the making and implementation of laws and regulations. At this stage, the working group has not been able to agree on the underpinning problems of poor RIA implementation in Vietnam in the last few years. USAID/VNCI is exploring the opportunity to engage an international expert to conduct an assessment of RIA implementation in Vietnam from international best practices perspective. The assessment will provide key stakeholders such as MOJ, OOG and National Assembly with an understanding of the core problems in RIA implementation. It is also expected to advise the government and NA on providing a legal framework that will allow for RIA implementation in Vietnam in the future.
- Met with Ministry of Communication and Information on July 20, 2012 to discuss how USAID/VNCI can help draft a RIA report for Cyber-space security law. The first meeting with the drafting team was organized on 31 July 2012 to discuss how USAID/VNCI can facilitate discussion on RIA for this draft law. This law is expected to provide a legal framework for ensuring security of digital information.

- **RIA outreach:**

- At the request of TCER, the USAID/VNCI team is working on a RIA handbook for National Assembly's deputies. The handbook will provide deputies with RIA concepts and methods to review RIA reports. The handbook will also give them guidance on how to better understand the effectiveness of proposed legislation and policies.
- On 30 July, 2012 the USAID/VNCI team held a discussion with CIEM to prepare for a workshop on RIA and High Quality Policy Making. Experts from Australia, New Zealand and Vietnam will present on the role of RIA and international experiences in getting RIA well-implemented for improving the quality of policy making. The workshop is scheduled on 30 August 2012.

The Provincial Competitiveness Index (PCI)

- **PCI 2012 survey:** As of July 28 2012, 4,566 PCI 2012 survey responses were received and recorded from local enterprises and 95 from foreign firms. The goal is to collect responses from 7,000 local enterprises and 2,000 foreign firms. This year's domestic survey seems to be on good track as we still have another month to go; The USAID/VNCI team also developed and fine tuned the code book for the PCI 2012 domestic survey.
- **PCI 2011 diagnostic workshops:**
 - **Dak Lak workshops:** There were two sessions of PCI workshop in Dak Lak on 27 July, 2012. In the morning, the workshop focused on raising awareness of PCI, the importance of improving governance and the promoting business development. The 100 participants included civil servants at district and commune levels. Although Dak Lak provincial leaders are familiar with the PCI, this was the first time PCI targeted grass-root levels, who have been considered a major

factor in hindering reforms at the province. The morning presentations included a PCI briefing, a PCI analysis for Dak Lak, and overall analysis of Vietnam's economy and competitiveness (presented by senior economist -Le Dang Doanh). Dak Lak is planning a PPC Action Plan that will provide an implementation plan for the districts and communes, as well as a specially appointed task force. . The afternoon workshop session focused on developing cooperation between VCCI and Agricultural Competitiveness Project funded by WB. PCI was included in the training course to help participants understand the role of healthy and good governance in improving competitiveness of a province, as well as a sector.

- **Ninh Binh workshop on July 23, 2012:** This is the first time Ninh Binh has organized a PCI diagnostic workshop. Its ranking in PCI 2011 dropped 10 places from 11th in PCI 2010 to 21st out of 63 cities and provinces. The workshop was chaired by the Vice Chairman of Ninh Binh People's Committee, the Director of DPI Ninh Binh and the Director of the VCCI branch in Thanh Hoa. It was attended by 70 representatives of different line departments, district administrative governments and business leaders. The 2011 PCI diagnostic analysis for the country as a whole and for Ninh Binh was presented at the workshop. This was followed by a discussion on the positive experiences of other provinces in implementing administrative procedures.

The Vice chairman of Ninh Binh People's Committee expressed his appreciation and agreement on the PCI analysis. Ninh Binh plans to organize an investment promotion conference in November. He emphasized the potential danger for Ninh Binh of being left behind in economic development and investment promotion. The province is in need of drastic solutions to achieve its 5 year plan by 2015. It seems local enterprises still have some reservations about the local leaders. It is vitally important to develop a level-playing field for all economic sectors. The model of a one-stop-shop should be applied in implementing administrative procedures in all administrative bodies at the district level.

Transparency in information released on land compensation and the provision of land related information to the public, needs to be improved to reduce land complaints, create equal business opportunities and reduce costs to enterprises. One of province's priorities is to develop tourism which requires appropriate infrastructure development and adequate human resources.

- **Ha Tinh workshop on July 14, 2012:** Ha Tinh province made an impressive improvement in PCI in 2011, the province improved by more than 7 PCI points to 65.97 compared to their 2010 result and climbed to 7th position. For the first time in 5 years, Ha Tinh has seen itself in the good-performing tier. Not being satisfied with these results, Ha Tinh authority is now aiming for a higher target, which is how to improve its PCI ranking even more. That's the reason why the Chairman of Ha Tinh PPC asked for a full day workshop on a Saturday, required the participation of all government officials from the provincial, district and town levels to the cabinet and Party levels. The workshop was fully attended with more than 300 participants, details of governance weaknesses and plans to improve were openly discussed. Besides the presentations by the PCI team, there was a presentation by Mr. Lieu - CIEM on sharing good practices in land and construction, as well as the sharing of his experience by Mr. Bac, Deputy Director of DPI Bac Ninh. The province's PCI result has gradually improved over time as a result of the leaders' commitment to improve the business and investment

environment. This environment is highly appreciated by the business community. What impressed the PCI team most was how the Chairman shared his experience on how to build a long-lasting and sustainable governance mechanism to improve the business-friendly environment. Two delegations from Yen Bai and Nghe An were attending the event to learn from Ha Tinh's experience. Once again, this is showing the impacts of good governance practice that PCI introduced and nurtured and which now continues to spread to other local governments.

- **Post PCI actions:**

- As a follow-up to the PCI workshop in Dak Nong province on May 23, 2012, they have drafted a Plan to enhance the provincial competitiveness in the period of 2012-2015. The Province is aiming at improving the business and investment environment and their position in the competitiveness ranking. USAID/VNCI provided comments on the draft Plan in order to make the Plan more practical, focused and effective.

- **PCI sustainability:** USAID/VNCI is in the process of transferring the PCI website to VCCI for administration and better utilization of the website. On-going work includes reviewing and making necessary changes to the website functions, and training on how to use admin rights to manage and update the website.

- **PCI Outreach:**

- DFID has sent an official request for access to PCI time series data from 2006. They intend to use the information for their in-depth study of corruption at selected provinces. USAID has authorized USAID/VNCI to provide DFID with the information under certain conditions. USAID has also required that a disclaimer be used where ever the information is used in the study.
- As a follow-up of the PCI workshop in Nghe An on June 7, the province's newspaper is planning to have several specialized pages about Nghe An's governance strengths and weaknesses based on PCI analysis in the workshop. USAID/VNCI supported the writing the analysis for the newspaper.

Infrastructure Financing/Development via Public-Private Partnerships

PPP Project Support:

- **Nghi Son Waste Water Treatment Project:**

- Following the site visit to the Nghi Son Economic Zone and meetings with the Thanh Hoa Province (ASA), the USAID/VNCI team met with Nghi Son WWTP's consulting firm (Asconti Consultants) to help determine the level of investor interest in the project.
- The PPP Office and Thanh Hoa (ASA) agreed that their existing technical consulting firm (Asconti Consultants) should amend and update their January 2012 Report to incorporate information required in determining whether a PPP is feasible. USAID/VNCI team will support the consultants' efforts and assist the PPP Office in reviewing and recommending whether additional resources should be devoted to the project. As of now, the principal short term risk to the project appears to be the slow pace of negotiations on the oil refinery project which would be considered the economic zone's anchor client. Finding resources for Asconti Consultants to revise and update their January 2012 feasibility study also remains an issue.

- USAID/VNCI finalized the PPP recommendation report for Nghi Son WWTP project and sent it to Director of the PPA. The report will be used by the PPP Office in determining if additional resources should be put into preparing the project proposal based on the original technical feasibility study. USAID/VNCI is recommending that although the project could be a PPP, it is not suitable as a Decision 71 PPP Pilot project for several reasons including the fact that a contract still needs to be agreed upon and signed between the GoV and the Nghi Son oil refinery which will be the anchor client. Also, the financial model shows that based on existing average Vietnamese Wastewater Treatment tariffs not even operating and maintenance costs; much less any capital costs will be covered by revenues.
- **E-procurement project:** USAID/VNCI continues to provide support to MPI/PMU for e-Procurement. Support was provided in developing an outline for feasibility study and the terms of reference for a legal advisor. USAID/VNCI anticipates providing the required PPP and legal transaction advisory services along with UBITEC (technical advisors). This is a priority PPP Pilot project within MPI.
- **Other PPP projects:**
 - Working with PPP Office to supporting Thanh Hoa PC in exploring the feasibility of a possible transportation (toll road) PPP.
 - Continue support for PPP Office and the Da Nang ASA in working with the IFC as transaction advisors on an urban bus system and septic collection and treatment projects. USAID/VNCI through the PPP Office supported the Province in negotiating transactional advisory services (including two PPP feasibility studies) with the IFC. Both projects are expected to be undertaken pursuant to Decision 71.

Institutional Support:

- Reviewed and presented recommendations on the “Investor Selection” chapters of the Draft Revised Procurement Law that being proposed by the PPA. The revised Procurement Law is in the final stages of being completed and will apply to Public Private Partnerships (Decision 71) and Build Operate and Transfer (Decree 108/2009) only with respect to selection of private PPP partners.
- Based on discussions with representatives of the PPP Office and the Director of the PPA, USAID/VNCI is assisting the Government in developing a PPP communication strategy. A proposed communication strategy which follows a holistic approach and clearly focuses on each PPP stakeholder type was submitted for review to the PPA/PPP Office. An informal sub-component SOW for USAID/VNCI is being drawn for PPA.
- Preparing material for workshop that will include 15 ASAs (12 provinces/cities and 3 ministries). The workshop, which has been postponed, is expected to be rescheduled for August and will be an official kick-off of the PPP program. The outcome of the workshop and the follow-up meetings with the individual ASAs will create a truly viable PPP pipeline of 5 to 10 projects. The pipeline will then lead to the preparation of 2 to 4 project proposals that will form the initial work load for the PPP Project Development Fund.
- Finalized and translated a draft PPP project identification and prioritization guideline. The PPP Office is reviewing the guidelines.

- Completing the project proposal guidelines for the PPP Office and ASAs and private sector. The guidelines will provide guidance on preparing a project proposal that will be submitted to the PPP Inter-ministerial Committee through the PPP Office within MPI. The project proposal will serve to determine the expected required state contribution and to justify that additional resources (eventually from the PDF) be allocated the potential PPP project.
- As part of our capacity building efforts, USAID/VNCI is training the PPP Office on various aspects of PPP. The subjects covered this week were understanding financial statements and preparing a Public Sector Comparator to be used in determining value for money of a project. In the end, it is expected that one of the PPP Office's principal responsibilities will be training ASA staff on PPPs. VNCI will continue to train PPP Office staff on a regular basis.
- Assisted the PPP Office in preparing for and managing a consulting firm engaged to undertake a capacity building needs assessment. Also, provided input along with USAID on this subject. A meeting was held at USAID on 16 July, 2012 with the consultants regarding the needs assessment, which when finalized will be presented to all stakeholders including USAID..
- Prepared input and presentation for the APIP (APEC Infrastructure Partnership) workshop in Hanoi. Presentations included an update on the progress of the PPP initiative in Vietnam. USAID/VNCI also supported the PPP Office in preparing a presentation for MoF/APIP workshop.
- Met with IndoChina Capital to determine their capacity and appetite with respect to bidding on PPP projects. They have a \$50 million commitment from OPIC to co-invest in a Mekong delta focused equity fund. The fund will be focused on renewable energy and environmental projects, such as water and wastewater and solid waste collection and landfills. Both of these sectors have PPP potential.

Project Management

- Viet Anh Nguyen has informed USAID/VNCI of his decision to accept an employment opportunity offered by the IFC Vietnam. While we support Viet Anh in taking such a good opportunity, we are also concern about the operation of the VNCI Project, especially in the non-PPP program areas. USAID/VNCI in consultation with DAI HQ is working on a transition plan to address these concerns. Since the remaining time of the project is short, we are exploring different options, including possibility to promote a team member to the DCOP position, in combination with Viet Anh providing support on a part-time basis to ensure the smooth operation of the Project in critical areas such as PCI report development, RIA for LoL, and positioning of APCA in new structure of MOJ. This will allow Scott Jazyuka to continue focusing primarily on the rapidly developing and ever more demanding PPP initiative.